

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO	)	
WHOLESALE WATER RATES CHARGED BY	)	
THE CITY OF CARLISLE TO SHARPSBURG	)	CASE NO.
WATER DISTRICT AND NICHOLAS COUNTY	)	2021-00382
WATER DISTRICT PURSUANT TO KRS 278.200,	)	
KRS 278.160, KRS 278.180, KRS 278.190, AND	)	
807 KAR 5:011	)	

ORDER

On September 30, 2021, pursuant to 807 KAR 5:011, the city of Carlisle (Carlisle) filed a revised tariff proposing to increase its existing rate for wholesale water service effective October 30, 2021, to Sharpsburg Water District (Sharpsburg District) and Nicholas County Water District (Nicholas District).<sup>1</sup> On its own motion, the Commission opened a formal proceeding to investigate the reasonableness of the proposed rate. By Order dated October 20, 2021, pursuant to KRS 278.190(2), the Commission determined that further proceedings were necessary and suspended the rates for five months, from October 30, 2021, up to and including March 30, 2022. In the same proceeding, the Commission opened an investigation to review whether Carlisle charged its wholesale customers unauthorized rates in violation of KRS 278.160.

LEGAL STANDARD

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<sup>1</sup> KRS 278.190(3) requires that the Commission render a final decision on Carlisle's proposed rate no later than ten months after the filing of the schedule. This ten-month period ends on March 31, 2022.

Pursuant to KRS 278.200, the Commission has jurisdiction over Carlisle's rates for wholesale water service to Sharpsburg District and Nicholas District. The Supreme Court's decision in *Simpson County Water District v. the City of Franklin*<sup>2</sup> specifically stated that "where contracts have been executed between a utility and a city, KRS 278.200 is applicable and requires that by so contracting the City relinquishes the exemption and is rendered subject to the PSC rates and service regulation."<sup>3</sup> Following the Court's decision in *Simpson County*, the Commission has allowed city-owned utilities to file rate adjustments by a tariff filing, and if a hearing is requested and the Commission suspends the proposed rate, the requirements and procedures set forth in KRS Chapter 278, and the Commission's regulations, apply equally to filings by a city-owned utility or a jurisdictional utility.<sup>4</sup> This case presents the issue of whether Carlisle's proposed rate increase is fair, just, and reasonable based upon the evidentiary record.

Carlisle's wholesale water rate charged to Sharpsburg District and Nicholas District is subject to KRS 278.030, which provides that a utility may collect fair, just and reasonable rates. KRS 278.260 further provides that the Commission, on its own motion, may investigate whether "any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable." In addition to suspending the proposed tariff for investigation, the Commission opened an investigation to determine if Carlisle engaged in unreasonable conduct related to its wholesale contracts with Nicholas District and Sharpsburg District.

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<sup>2</sup> *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; *City of Danville v. Public Service Comm'n, et al.*, Civil Action No. 15-CI-00989, *Opinion and Order* (Franklin Circuit Court Division II, June 14, 2016).

## DISCUSSION

Commission Staff issued three rounds of information requests to Carlisle. The first requests were entered October 25, 2021, and Carlisle filed responses on January 18, 2022, more than two months after the responses were due on November 9, 2021. Commission Staff entered information requests on January 6, 2022, after a hearing was held in this matter, and partial responses were filed by Carlisle on January 24, 2022. After still not receiving full responses, Commission Staff entered the third round of information requests on January 31, 2022, with responses due on February 28, 2022.

When Carlisle did not file any responses, Commission Staff contacted counsel for Carlisle on February 28, 2022. Carlisle responded that the responses would be filed at the beginning of the week of March 8, 2022. As of the entry of this Order, Carlisle has provided no responses.

## FINDINGS

Carlisle failed to properly respond to information requests dating to January 6. The Commission finds that the requested information is necessary to a proper adjudication of the matters listed in the Opening Order, and Carlisle shall file full responses no later than March 21, 2022, so that the Commission can fulfill its statutory obligation to enter a final Order on the tariff by March 30, 2022.

Further, the Commission finds that it is necessary to hold a formal hearing on all matters included in the Opening Order.

Therefore, the Commission HEREBY ORDERS that:

1. Carlisle shall file responses to the information requests entered on January 6, 2022, and January 31, 2022, by March 21, 2022, or file a formal written response in the record to explain why that information is not available.

2. A hearing in this matter shall be held on April 14, 2022, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, on all matters set forth in the Opening Order.

3. Carlisle shall give notice of the hearing in compliance with 807 KAR 5:001, Section 9(2)(b). In addition, the notice of hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, [psc.ky.gov](http://psc.ky.gov)." At the time the notice is mailed or publication is requested, Carlisle shall forward a duplicate of the notice and request to the Commission.

4. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video transcript shall be made of the hearing.

By the Commission



ATTEST:

  
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